

KAUA‘I PLANNING COMMISSION
REGULAR MEETING
July 26, 2016

The regular meeting of the Planning Commission of the County of Kaua‘i was called to order by Chair Mahoney at 9:00 a.m., at the Lihu‘e Civic Center, Mo‘ikeha Building, in meeting room 2A-2B. The following Commissioners were present:

Chair Sean Mahoney
Mr. Wayne Katayama
Mr. Roy Ho
Mr. Kimo Keawe
Ms. Glenda Nogami Streufert

Absent and Excused:
Vice Chair Louis Abrams

The following staff members were present: Planning Department – Michael Dahilig, Kaaina Hull, Leslie Takasaki, Dale Cua; Deputy County Attorney Jodi Higuchi Sayegusa; Office of Boards and Commissions – Administrator Jay Furfaro, Commission Support Clerk Darcie Agaran

Discussion of the meeting, in effect, ensued:

CALL TO ORDER

Chair Mahoney called the meeting to order at 9:00 a.m.

ROLL CALL

Planning Director Michael Dahilig: Commissioner Ho?

Mr. Ho: Here.

Mr. Dahilig: Commissioner Keawe?

Mr. Keawe: Here.

Mr. Dahilig: Commissioner Streufert?

Ms. Nogami Streufert: Here.

Mr. Dahilig: Commissioner Katayama?

Mr. Katayama: Here.

Mr. Dahilig: Vice Chair Abrams? Chair Mahoney?

Chair Mahoney: Here.

Mr. Dahilig: Mr. Chair, we have five (5) members present.

APPROVAL OF AGENDA

Mr. Dahilig: We are on Item C, which is Approval of the Agenda. The Department would recommend taking the agenda as-is this morning.

Chair Mahoney: Chair will entertain a motion.

Ms. Nogami Streufert: I move to approve the agenda.

Mr. Keawe: Second.

Chair Mahoney: It's been moved and seconded. Any discussion? Hearing none. All in favor say aye. (Unanimous voice vote) Opposed? (None) Motion carries 5:0.

MINUTES of the meeting(s) of the Planning Commission

Meeting of June 28, 2016

Mr. Dahilig: Thank you, Mr. Chair. We are now on Item D. These are the minutes of the meeting of June 28, 2016.

Chair Mahoney: Any corrections to the minutes? Seeing none.

Ms. Nogami Streufert: I move to accept the minutes of the meeting of the Planning Commission from the meeting of June 28, 2016.

Mr. Ho: Second.

Chair Mahoney: Moved and seconded. Any discussion? Hearing none. All in favor say aye. (Unanimous voice vote) Opposed? (None) Motion carries 5:0.

RECEIPT OF ITEMS FOR THE RECORD

Mr. Dahilig: Thank you, Mr. Chair. We are on Items for Receipt for the Record. We have nothing additional to ask the Commission to receive for this meeting.

HEARINGS AND PUBLIC COMMENT

Mr. Dahilig: We are on Item F. This is Hearings and Public Comment.

Continued Agency Hearing (NONE)

Mr. Dahilig: Item F.1. This is Continued Agency Hearing. We have none for this morning.

New Agency Hearing

Class IV Zoning Permit Z-IV-2016-18 and Use Permit U-2016-15 to allow conversion of an existing residence into a bed and breakfast operation on a parcel located along the northern side of Po'ipū Road in Po'ipū, approx. 250 ft. north of the Kipuka Street/Po'ipū Road intersection and further identified as 2375 Kipuka Street, Tax Map Key 2-8-023:040, and containing a total area of 10,570 sq. ft. = Rebecca Smith-Magdalen.

Mr. Dahilig: Item F.2. This is Class IV Zoning Permit Z-IV-2016-18 and Use Permit U-2016-15. This is relating to conversion of an existing residence into a bed and breakfast operation; TMK: 2-8-023:040. Applicant (is) Rebecca Smith-Magdalen.

This item has been postponed due to notification requirements, so the Department would recommend, I guess, just receiving Chapter 92 testimony on this and we'll reschedule when they meet the requirements. We do not have anybody signed up to testify, but making a final call just for Sunshine Law testimony.

Chair Mahoney: Is there any member of the public that would like to testify on this agenda item? Seeing none.

Special Management Area Use Permit SMA(U)-2016-6 to construct a farm dwelling unit (FDU), garage, agriculture accessory buildings and associated improvements on a parcel located at the terminus of 'Anini Vista Road in 'Anini, approx. 900 north of its intersection with Kūhiō Highway and further identified as 3471 'Anini Road, Tax Map Key 5-3-009:003, CPR Unit 2, affecting a portion of a larger parcel containing a total land area of 12.073 acres = Area K, LLC.

Mr. Dahilig: Thank you, Mr. Chair. We are on Item F.2.b. This is Special Management Area Use Permit SMA(U)-2016-6 to construct a farm dwelling unit, garage, agriculture accessory dwelling, and associated improvements on a parcel located at the terminus of 'Anini Vista Road in 'Anini, approximately 900 feet south [sic] of its intersection with Kūhiō Highway and further identified as 3471 'Anini Road, Tax Map Key TMK: 5-3-009 Parcel 003, CPR Unit 2, affecting a portion of a larger parcel containing a total area of 12.073 acres. The applicant is Area K, LLC.

Mr. Chair, we do not have anybody signed up to testify on this item. The Department would recommend opening the agency hearing and receiving any other testimony as required.

Chair Mahoney: Is there any member of the public that would like to testify on this agenda item? Seeing none.

Mr. Dahilig: Mr. Chair, given the subject matter and the outstanding items in the report that the Department has transmitted on this particular item, the Department would recommend keeping this particular agency hearing open and dealing with the matter...at least with the presentation in New Business under Item M.1.

Chair Mahoney: Okay. Do we need a motion?

Mr. Dahilig: No.

Chair Mahoney: Okay.

Mr. Dahilig: Okay.

Continued Public Hearing

Adoption of administrative rules interpreting provision of Chapter 8, Kaua'i County Code, as amended, pertaining to the enforcement of structures relating to Chapter 8, Article 27 (Shoreline Setback Determination) = County of Kaua'i, Planning Department.

Mr. Dahilig: Thank you, Mr. Chair. We are on Item F.3.a., adoption of administrative rules interpreting provision of Chapter 8, Kaua'i County Code, as amended, and pertaining to the enforcement of structures relating to Chapter 8, Article 27. This is Shoreline Setback Determinations. Applicant is our department and there is a letter from our department requesting the withdrawal from these particular rules. The Department would recommend receiving the letter from the Deputy Director and receiving any other Chapter 92 testimony as required.

Chair Mahoney: Do we have a motion to receive?

Mr. Keawe: Move to...I motion to receive.

Mr. Ho: Second.

Chair Mahoney: Moved and seconded. Any discussion? Hearing none. All in favor signify by saying aye. (Unanimous voice vote) Opposed? (None) Motion carried 5:0.

New Public Hearing

Zoning Amendment ZA-2016-5 for a Bill for an Ordinance amending subsection 8-15.1(d), Kaua'i County Code, as amended, relating to additional dwelling unit on other than residentially zoned lands = County of Kaua'i, Planning Department.

Mr. Dahilig: Thank you, Mr. Chair. We are on Item F.4.a. This is Zoning Amendment ZA-2016-5 for a bill for an ordinance amending subsection 8-15.1(d), Kaua'i County Code, as

amended, relating to additional dwelling units on other than residentially zoned lands. The applicant is this department and there is a Director's Report pertaining to this matter. The Department would recommend opening the public hearing at this time.

Mr. Chair, we do not have anybody signed up to testify on this particular agenda item.

Chair Mahoney: Is there any member of the public that would like to testify on this agenda item? Seeing none.

Mr. Dahilig: Mr. Chair, given the absence of testimony, the Department would recommend closing the public hearing at this time.

Chair Mahoney: Chair will entertain a motion.

Mr. Ho: Move to close the public hearing.

Ms. Nogami Streufert: Second.

Chair Mahoney: It's been moved and seconded. Any discussion? Hearing none. All in favor signify by saying aye. (Unanimous voice vote) Opposed? (None) Motion carries 5:0.

Zoning Amendment ZA-2016-6: A Bill for an Ordinance amending Chapter 8, Kaua'i County Code 1987, as amended, relating to Section 8-2.4 entitled "Uses in Districts" = County of Kaua'i, Council.

Mr. Dahilig: Thank you, Mr. Chair. We are now on Item F.4.b. This is Zoning Amendment ZA-2016-6. A bill for an ordinance amending Chapter 8, Kaua'i County Code 1987, as amended, relating to Section 8-2.4 entitled "Uses in Districts". The applicant is the Kaua'i County Council. There is a Director's Report pertaining to this matter. The Department would recommend opening the public hearing at this time.

Chair Mahoney: Is there any member of the public that would like to testify on this agenda item?

Mr. Dahilig: Mr. Chair, given the absence of testimony, the Department would recommend closing the public hearing at this time.

Chair Mahoney: Chair will entertain a motion.

Ms. Nogami Streufert: I so move.

Mr. Keawe: Second.

Chair Mahoney: It's been moved and seconded. Any discussion? Hearing none. All in favor? (Unanimous voice vote) Opposed? (None) Motion carried 5:0.

All remaining public testimony pursuant to HRS 92 (Sunshine Law)

Mr. Dahilig: Thank you, Mr. Chair. We are on Item F.5. This is all remaining public testimony pursuant to HRS 92. I do not have anybody signed up to testify on any other agenda item this morning. The Department would recommend making a final call for any public testimony.

Chair Mahoney: Is there any member of the public that would like to testify on any agenda item that's been mentioned? Seeing none.

CONSENT CALENDAR

Status Reports (NONE)

Director's Report(s) for Project(s) Scheduled for Agency Hearing (NONE)

Mr. Dahilig: Thank you, Mr. Chair. We are on Item G, Consent Calendar. We have no status reports or Director's Reports for the Consent Calendar.

EXECUTIVE SESSION

Mr. Dahilig: Item H. We do not have any scheduled executive sessions this morning.

GENERAL BUSINESS MATTERS

Letter (7/18/16) from Jody Galinato, Planner, County of Kaua'i Planning Department, transmitting a request to withdraw Class IV Zoning Permit C-IV-2014-13 for Deanna Kanahele, My Growing Place Preschool.

Mr. Dahilig: Item I. This is a letter dated 07/18/16 from Jody Galinato, Planner of our department, transmitting a request to withdraw Class IV Zoning Permit Z-IV-2014-13 for Deanna Kanahele for My Growing Place Preschool.

The Department would recommend receiving this particular request.

Chair Mahoney: Chair will entertain a motion to receive.

Mr. Ho: Move to receive.

Mr. Keawe: Second.

Chair Mahoney: Moved and seconded. Any discussion? Hearing none. All in favor say aye. (Unanimous voice vote) Opposed? (None) Motion carried 5:0.

Request to amend Class IV Zoning Permit Z-IV-2006-32 and Variance Permit V-2006-10 to allow minor modifications to the Kaua'i Product Fair in order to rectify unpermitted improvements, site improvements and to allow conversion of 2 retail units into a restaurant facility on parcels located in the northern section of Kapa'a Town, along the mauka side of Kūhiō Highway, situated directly across the Otsuka Furniture Retail Store, further identified as Tax Map Keys 4-5-012:025 thru 028, totaling approx. 1.65 acres = Jasper Properties LLC (Kaua'i Product Fair).

Mr. Dahilig: Thank you, Mr. Chair. We are on Item I.2. This is a request to amend Class IV Zoning Permit Z-IV-2006-32 and Variance Permit V-2006-10 to allow minor modifications to the Kaua'i Product Fair in order to rectify unpermitted improvements, site improvements, and allow conversion of two (2) retail units into a restaurant facility on parcels located in the northern section of Kapa'a Town, along the mauka side of Kūhiō Highway, situated directly across the Otsuka Furniture Retail Store, further identified as Tax Map Key 4-5-012 Parcels 025 through 028, totaling a total area of 1.65 acres. The applicant for this matter was Jasper Properties LLC, known as the Kaua'i Products Fair, and there's a Director's Report for this matter.

Mr. Chair, I do not see a representative for the...oh, actually I do now. And I guess I...we would, I guess...Dale is our planner on this matter and if you're able to provide some background on this request and the Department's evaluation for it.

Chair Mahoney: Okay.

Staff Planner Dale Cua: Good morning, Mr. Chair and members of the Commission. At this time, I'd like to skim through the Director's Report.

Mr. Cua read the Summary, Project Description and Use, Applicant's Reasons/Justification sections of the Director's Report for the record (on file with the Planning Department).

Mr. Cua: At this time, that would conclude the Department's findings for the project.

Chair Mahoney: Are there any questions for the Planner from any members of the Commission?

Ms. Nogami Streufert: If I could. Dale, as I recall, there were other conditions on this that needed to be done. You're doing this in two (2) phases, is that correct?

Mr. Cua: That's correct.

Ms. Nogami Streufert: Just in two (2) phases.

Mr. Cua: Right. So the first phase...yeah.

Ms. Nogami Streufert: I'm sorry. And in Phase 1, there are several different steps to that, and there is timing associated with that. The intent is that for the first phase everything will be done within 18 months so that these are all going to be done concurrently. Is that...?

Mr. Cua: Correct.

Ms. Nogami Streufert: Okay. And that's part of the Director's Report that (inaudible)?

Mr. Cua: Yes. So the proposed solution is to...if the applicant's request is considered, to approve the request in two (2) phases. Phase 1 would be first and foremost to resolve the outstanding conditions of the permit and then Phase 2 would be to allow the conversion.

Ms. Nogami Streufert: Just as a matter of information for myself, what is the...after one is notified of a non-compliance, how much times does a person or how much time does a business have to rectify that?

Mr. Cua: Generally speaking, the procedure requires...once a department determines that there is a non-compliance in a situation, the department would first issue a...what is called a Zoning Compliance Notice, or ZCN, and in that Zoning Compliance Notice, the applicant is required to get back to the department within 15 days. At that point, the applicant will be communicating with the department to (1) determine a timeline, as far as how to resolve the situation.

Ms. Nogami Streufert: And if that doesn't happen within 15 days, then what happens?

Mr. Cua: Then, say, if an applicant does not respond within that time limitation, then the department would then issue what is called a Notice of Violation. It identifies what particular requirements that are outstanding, or in this case, you know, that are non-compliant. Again, in that Notice of Violation, there's a specific timeline that the applicant needs to resolve.

Ms. Nogami Streufert: Thank you.

Chair Mahoney: Any further questions for the Planner? Commissioner Ho.

Mr. Ho: Dale, in what we were just discussing, when a Notice of Violation is issued, at the extreme end, would that be a...what would that be? A revocation of permit? A fine?

Mr. Cua: No, I guess there would be several options; one is imposition of fines. In this case, it can be revocation of permits.

Chair Mahoney: Are there any further questions for the Planner? Is there a representative for the applicant? Could you state your name for the record, please?

Jimmy Jasper: Jimmy Jasper, Jasper Properties.

Chair Mahoney: Could you give us any background on your side?

Mr. Jasper: On the Kaua'i Products Fair, my family started it 15 years ago; small business incubator. Started it couple days a week and morphed into an outdoor marketplace; basically, incubator for small business. If you go...

Chair Mahoney: (Inaudible) relative to what's on the agenda today. Have you read the Director's Report?

Mr. Jasper: Yes, sir.

Chair Mahoney: And the conditions that were put upon the...?

Mr. Jasper: Yes, sir.

Chair Mahoney: Do you have any problems with any of it?

Mr. Jasper: No, sir.

Chair Mahoney: You're willing to comply with...in other words, with all of the conditions set forth by the Department?

Mr. Jasper: Yes, sir.

Chair Mahoney: Commissioner Keawe.

Mr. Keawe: I guess my question is, from the initial notice of non-compliance, it's been 7 years?

Mr. Jasper: Correct.

Mr. Keawe: And the reason is?

Mr. Jasper: (In) 2007, we hit the recession of our lifetime. Basically, trying to keep the wheels on the cart of small business, my restaurant, JJ's Broiler, other assets...keep everybody...keep projects afloat unlike...more like a lot of small businesses, just try to not end up like Aloha Airlines and these other companies that went broke. Here we are, climate's better, and we're putting this, hopefully, behind us and make a real nice project out of it.

Mr. Keawe: Basically, the economic climate prevented you from moving forward...

Mr. Jasper: Yes. Couldn't get financing.

Mr. Keawe: Okay.

Mr. Jasper: And now we can.

Chair Mahoney: Any other Commissioners have any questions for the applicant? I think, following up on Commissioner Keawe, I think it was, you know, the timeframe and the recession, but...and I think earlier you stated you're willing to, you know, in a timely manner, address the conditions.

Mr. Jasper: Correct.

Chair Mahoney: I think that was probably one of the thoughts that was going on. Commissioner Keawe.

Mr. Keawe: One more. So Dale, you've got it in two (2) phases. So the assumption being Phase 1, they have a certain list of conditions to comply, and you're going to wait for those to be done first before initiating Phase 2?

Mr. Cua: Correct.

Mr. Keawe: Okay.

Chair Mahoney: Any further questions for the applicant? Hearing none. Can we have the final recommendation from the Planner?

Mr. Cua: Sure. I'll go ahead and read the recommendation. I just wanted to make one (1) correction to Condition No. 11. It's at the bottom of Page 6 of the Director's Report. In the third sentence, I'd like to add the word, Phase 1 WILL "result in" fines. I'll go ahead with the conditions.

Mr. Cua read the Preliminary Recommendation section of the Director's Report for the record (on file with the Planning Department).

Mr. Dahilig: We'll strike No. 16 as a duplication of No. 13.

Mr. Cua: Oh, okay. Oh, I'm sorry. Yeah, we're going to strike Condition No. 16, as noted in the report, and the new...what's noted as Condition No. 17 is now No. 16.

Mr. Cua continued to read the Preliminary Recommendation section of the Director's Report for the record (on file with the Planning Department).

Mr. Cua: And that concludes the Director's Report and its recommendations.

Chair Mahoney: Okay. Any questions for the Planner? Commissioner Katayama.

Mr. Katayama: Actually, I have one for the Department. Before proceeding on intensifying the use, why wouldn't any outstanding violations be cured before we address potential upward development? I mean, why are we tying all of this in?

Mr. Dahilig: I think that is a good question, and we believe that, from a standpoint of okay, get your stuff in compliance and we'll talk about the additions to the permit; that's why this actually has risen to an amendment-style permit versus something that is just strictly compliance. So what we wanted to do is lay out for the Commission that, really, the amendments are a consequence of the additional uses wanted on the property, but we should not even have that discussion on the additional uses without a path towards compliance, so that's why we folded both of these in. So if there is a policy discussion that is before the Commission, whether or not to grant the permit, it should also involve that...those topics that you are raising.

Mr. Katayama: Shouldn't the applicant be in good standing prior to...? I mean, I understand the reasons, the economic issues of what, I guess, that's drawn out the ability for the applicant to comply, but to fold that in with intensifying the use, I think you need to demonstrate that what you are using the property for currently is in good standing.

Mr. Dahilig: And I think that's what we want to do with folding in the timeline for remediation as part of the permit conditions. Because normally, when we get into an enforcement type of situation, we would not...we would handle it more as an agreement between the Department's Enforcement Division and the violator. But in this case, because there was a set of permits that came in to the Department for these additional conversions with the Kaua'i Bar and the Wine Bar, we said okay, hold on a second. This one requires an amendment to your Class IV Permits because these were not uses that were originally entertained at the initial time, but if you are going to want to do this, you've got to come into compliance. And I think that's...we're kind of saying the same message here. We're just laying out a path for compliance and, in effect, an agreement that okay, you do these things, all these things that you're required to do, and you are in good standing, then we'll move onto the permitting process for the bar and the wine bar. That's, I guess, what we've laid out. If the Commission feels that Condition No. 12 is not...it's not wanting to entertain Condition No. 12, then our department could withdraw the recommendation and look at this strictly as a compliance situation, but we thought it would be best to lay everything out as one (1) coherent plan that leads to an end result.

Mr. Katayama: But something as basic as a building permit compliance, isn't that sort of at a different level? It's not like...it's like not paying your taxes.

Mr. Dahilig: Well, you know, and I think we've had similar discussions with the applicant about responsibilities pertaining to their permit obligations and hence that's why we are now pretty much laying it out very clearly that you are not getting amendments to allow the usage of the wine bar and the other bar without being in good standing. And I think that's the message we're trying to send, but we're folding it into their organic permits versus treating it as an enforcement-type situation.

Mr. Katayama: I don't see that clearly, though, that you must do this before you...it seems like it's all folded in, is that all of these things can happen together, as long as at the end of 18 months, you're kosher or you're good.

Mr. Dahilig: Again, and that's where the language "upon the completion of Phase 1". So when we look at Phase 1, that's articulated as an 18-month period for them to get into compliance, and obviously, if we hit a situation that the applicant is not meeting their timeline obligations, and again, it's a phased...it's a sub-phased timeline; 6 months you got to have this, 12 months you got to have this. And believe us, we'll have our enforcement team taking a look at what is progressing. If these deadlines are not met, we are going to issue the Notice of Violation and we'll be back here again. So, you know, it's meant to be, I guess...I don't want to use the phrase "progressive discipline", but that's kind of what we're articulating here is, you know, we are going to have very strict timelines for you to comply, and if not, you're going to get fined and we're not going to talk about the Phase 2 elements, which is the processing of building permits for those two (2) permits.

Mr. Katayama: But the revocation process is a lot more intense, isn't it?

Mr. Dahilig: Well, and that's where you see, as a notice on the bottom, will result in fines and possible revocation of the foregoing permits. So this is...we're folding in...because it's almost like an omnibus type of solution versus something that's piecemeal, we're saying let's put everything on the table here, everything; enforcement, potential fines, notice of potential revocation of the organic permits. And at the same time, if you meet all of these obligations that you're supposed to meet, then we can talk about permitting and moving forward on intensification.

Mr. Katayama: I guess my last question is from a, you know...looking at it from a community perspective, what responsibility does the applicant have in ensuring that all of the conditions that the Commission puts forward is complied with on a timely basis, if you are going to take an omnibus approach to this?

Mr. Dahilig: That responsibility...I mean, obviously first and foremost falls on the applicant, but it also falls on our department to ensure that compliance is met. So as part of the crafting of these recommended conditions, we have been in consultation with our CZM Inspector, Les Milnes, to articulate what the benchmarks are and whether or not they are identifiable or not. So even though Dale's signature is on this plan, it's with the incorporation of a lot of the input from our Enforcement Division as well.

Mr. Katayama: Okay, thank you.

Chair Mahoney: Commissioner Streufert.

Ms. Nogami Streufert: I'm sorry. Could I ask a question?

Chair Mahoney: Yes.

Ms. Nogami Streufert: On an average day, how many people do you have going through the Kāua'i Product Fairs?

Mr. Jasper: Probably a couple hundred, you know, from an 8-hour perspective, shopping. Basically it's just an outdoor market shopping area.

Ms. Nogami Streufert: A couple hundred per hour you think?

Mr. Jasper: Oh no, no, no. I mean...did you say day or hour? I'm sorry.

Ms. Nogami Streufert: Day.

Mr. Jasper: You said day, right?

Ms. Nogami Streufert: Yes.

Mr. Jasper: Yeah, a couple hundred maybe. I mean, pre-recession it was a lot more foot traffic in my opinion. I have a...my family owns another shopping center that retail is not as strong as it used to be, and through the internet, people are making purchases and other things. Nationally, retail is not as strong as it's been and we see that at the Anchor Cove Shopping Center. If you ask other shopping center owners, they'll probably come out with the same thing. It's a couple hundred a day. It used to be stronger. I wish it was stronger.

Ms. Nogami Streufert: (Laughter) I'm sure you do. The reason for asking that is that there are only two (2) bathrooms. That may not be something that the Planning Department gets involved with, but there are only two (2) bathrooms for all of this for a couple hundred people.

Mr. Jasper: Yes. On the big scale, the little restaurants have two (2), four (4)...there's going to be six (6) bathrooms. Three (3), I guess, complete bathrooms on the actual footprint of the fair. Presently, you know, since I have access...allow access to people who visit the fair and people who work at the fair to use all the bathrooms at the fair. As you scrutinize the master plan, you'll see a lot more bathrooms than just the one (1) in the back.

Ms. Nogami Streufert: Right. Okay, because I'm anticipating that you're anticipating you're going to get more people to come.

Mr. Jasper: Yes, yes, I'll try to.

Ms. Nogami Streufert: And if you...if that happens, then that may not be...

Mr. Jasper: Both the restaurants got maximum bathrooms. The fair, itself, actually has one (1) on the back structure; I think its Building C. So as you look into it, it might...you know, it's something...you know, if they want more, we'll accommodate them, but it's something to look at.

Ms. Nogami Streufert: (Inaudible)

Mr. Jasper: Yes, I agree, I agree.

Ms. Nogami Streufert: Okay, thank you.

Chair Mahoney: Any further questions? Discussion? Well, I think part...you know, some of the conversation about the seriousness and the timeliness of the compliance. Do you understand that? That that's paramount on...

Mr. Jasper: Yes.

Chair Mahoney: Some of the Commissioners and public...you know, so getting back to the seriousness of being timely with...and that upon completion of Phase 1, then the Department will proceed for, you know...

Mr. Jasper: Phase 1, presently, is knocked out except for one (1) thing. All of the back things have already been addressed, and Chairman [sic] Mike knows...is following me and I know how serious he is about that, and I can do my darndest to make him happy and everybody else.

Chair Mahoney: Thank you. Okay, any further questions? Recommendation from the Planner? Anything from the Department? Any further comment?

Mr. Keawe: Did Dale read the recommendation?

Chair Mahoney: Yes, he did.

Mr. Keawe: Okay.

Mr. Katayama: So the applicant has stated that the items in Phase 1, it's completed? The majority have been completed?

Mr. Jasper: Yes.

Chair Mahoney: That's what he just stated. Is that correct?

Mr. Jasper: Yes. Mr. Milnes is...I'm working with him to...

Mr. Katayama: What is pending of the seven (7) items?

Mr. Jasper: The concrete...or not concrete, but the grass block; that's what I'm looking for. The back of the buildings have been taken away, the egress/regress [sic] has been closed, the back of the property has been closed, (and) so forth.

Mr. Katayama: So Phase 1, Item 4, the parking agreement is completed?

Mr. Jasper: Yes.

Mr. Katayama: Tents have been relocated?

Mr. Jasper: Yes, out of the parking lot.

Mr. Katayama: (Inaudible) storage areas?

Mr. Jasper: Yes, sir. I wanted to clean it up as much as I could before I came here in today with you folks to know that I'm not disingenuous; tried my hardest.

Chair Mahoney: Thank you. Okay, any further discussion? Chair will entertain a motion.

Mr. Katayama: Chair, I move to accept the Department's recommendations as amended...is it amended or you're striking No. 16?

Mr. Dahilig: As amended.

Mr. Katayama: As amended, striking Condition No. 16, modifying No. 17 to read as No. 16, and there's also an insertion of a word in No. 13?

Mr. Dahilig: No. 11.

Mr. Cua: Condition No. 11, yes.

Mr. Katayama: So having noted those amendments, I move to adopt as amended.

Mr. Keawe: Second.

Chair Mahoney: Okay, it's been moved and seconded to approve Class IV Zoning Permit Z-IV-2006-32 and Variance Permit V-2006-10. All in favor? (Unanimous voice vote) Opposed? (None) Motion carried 5:0. Thank you.

Mr. Jasper: Thank you, Chair.

COMMUNICATION (For Action)

Mr. Dahilig: Thank you, Mr. Chair. We are on Item J, Communications. We have none for action this morning.

COMMITTEE REPORTS

Subdivision

Mr. Dahilig: Item K. This is Committee Reports. We do have a Subdivision Committee Report that was circulated.

Chair Mahoney: Commissioner Keawe.

Mr. Keawe: Mr. Chair, the Planning Commission Subdivision Committee met this morning. We had one (1) item on the agenda. Tentative subdivision approval of No. S-2016-23, Grove Farm Company, approved 2:0. We submit for approval.

Chair Mahoney: Chair will entertain a motion for approval.

Mr. Katayama: Move to approve the Subdivision Committee Report No. 16.

Ms. Nogami Streufert: Second.

Chair Mahoney: It's been moved and seconded. Any discussion? Hearing none. All in favor? (Unanimous voice vote) Opposed? (None) Motion carried 5:0.

UNFINISHED BUSINESS (For Action)

Mr. Dahilig: Thank you, Mr. Chair. We are now on Unfinished Business. We have none for action this morning.

NEW BUSINESS

Special Management Area Use Permit SMA(U)-2016-6 to construct a farm dwelling unit (FDU), garage, agriculture accessory buildings and associated improvements on a parcel located at the terminus of 'Anini Vista Road in 'Anini, approx. 900 north of its intersection with Kūhiō Highway and further identified as 3471 'Anini Road, Tax Map Key 5-3-009:003, CPR Unit 2, affecting a portion of a larger parcel containing a total land area of 12.073 acres = Area K, LLC.

Mr. Dahilig: We are on Item M. This is New Business. We circle back to (the) item listed under F.2.b. This is Special Management Area Use Permit SMA(U)-2016-6 at TMK: 5-3-9 Parcel 003, CPR Unit 2. This is the Area K matter. Dale is our Planner on this particular item as well. He'll be giving the presentation on behalf of the Department.

Mr. Cua: Good morning, Mr. Chair and members of the Commission. I'll be summarizing and skimming through the Director's Report.

Mr. Cua read the Summary, Project Data, Project Description and Use, and Additional Findings sections of the Director's Report for the record (on file with the Planning Department).

Mr. Cua: That pretty much concludes the Director's Report at this time.

Chair Mahoney: Okay. Any questions for the Planner? Seeing none. Is there a representative for the applicant?

Ian Jung: Good morning, Chair and members of the Commission. Ian Jung on behalf of Area K, LLC. Along with me here is Andy Fran, representative of the applicant. We did prepare a short PowerPoint for you folks, but I know we're the last item on the agenda, so if you don't want to take the time to go ahead and for us to set it up, I brought you copies, so I'll leave it up to the discretion of the Chair. It's pretty fickle at times, so it's up to you folks if you want to see the PowerPoint or just take it.

Chair Mahoney: We can distribute the copies.

Mr. Jung: By way of just project overview, this project encompasses Lot 3 of the 'Anini Vista Subdivision. Lot 3 is a 12-acre piece and it's part of a 2-unit CPR that's located in the SMA, State Land Use Agricultural District, and General Plan Open Designation, as well as CZO Open and Ag District. This project has also gone through a pretty significant degree of permitting in the past, as Dale mentioned. The original subdivision created the 10-lot subdivision and a Master SMA was required as a part of that subdivision process because part of the lots getting created were within the SMA, and it was a subdivision of four (4) or more lots. Following that action, there was a requirement that each of the lots get a Master SMA as well, and the Master SMA for each of the lots basically laid out the specific site plan for each of these respective lots. With regard to Lot 3, the Master SMA was done in 1999. In addition to the Master SMA, there was a Class III that went along with this particular SMA, and the Class III actually reduced the density down from three (3) units down to two (2). So it became a 2-farm dwelling unit density project to basically eliminate the density in the Agricultural District because it split-zoned roughly ten (10) acres in the Open District and a little over one (1) acre in the Ag District. There was also an SMA Minor that was prepared for a rock wall and gate entry on the northern portion of the property to create the entry into the existing Driveway No. 1.

As Dale mentioned, there is a list of existing structures, and we can take a look at that on the site plan that's going to be in the next few pages of the PowerPoint, but the proposed structures that are being proposed as a part of this particular application for Unit B of the 2-unit condominium project is a farm dwelling unit, a pool and deck, a garage that is separately detached from the structure, an office that is also separately detached, some pathways that connect the office to the main residence, an agricultural shed that's going to be more towards the lower portion of 'Anini Road for the agricultural activities that are going to occur in the agricultural shade house that's going to be utilized as a detention base and as well as a shed for the vanilla bean agricultural activity which we'll get into a little more detail. And then there's also a proposal for the Driveway No. 2 and the Driveway No. 2 entry, as well as solar panels. And I think, as you go through your comments, we did get comments back with regard to a denial recommendation by the Department of Public Works for Driveway No. 2, but we'll be asking for a deferral to try and work with them to look at alternative locations where we could create a secondary access; either a secondary access coming up around the top or through the bottom in a different location. And these issues still need to be resolved with Public Works because they hold the cards with regards to grading and drainage, so we want to make sure that...we want to alleviate the concerns, mitigation requirements for any potential outflow into the 'Anini Beach area. So in your minds, I think you should just hold on to the Driveway No. 2 for now until we...and we'll request a deferral, but if we can sort of sort that out with Public Works to get a new, better plan in place.

Okay, so looking at the site plan there on the...you can see...and sorry it's not colored. It was colored on our screen, but the existing residence is noted sort of on the top of the peninsula. And from the property here, it's pretty topographically challenged and it is located in the shore and slope constraints, so the property is pretty well constrained with elevation issues. So the new proposed residence is shadowed on the left portion of the site plan, and you can see where the proposed pool is, the proposed residence, and then the proposed office is just behind the residence, and then you can see the second proposed driveway that comes connecting off that little dip off 'Anini Road coming up to the office and main residence. The drainage and grading plan that we've prepared for the second driveway proposed to actually mitigate further than what

exists now in terms of runoff flows, but DPW still has concern because it was only based off the two-year storm, so we are reevaluating those issues to try and look at other alternatives. The proposed ag structure is on the far left of the site plan, and you can see where it has a shed and shade structure as proposed.

On the next slide, we detailed the landscape plan. In the landscape plan, you can see the arrows point towards 'Anini Beach. I know many of you are familiar with 'Anini Beach, and looking up from 'Anini Beach, there is quite a good amount of False Kamani trees that line the beach, so there are areas that there are no False Kamani trees, especially in the park area, where visually, looking up, there could be an impact if we didn't impose these masking or screening trees. So the landscape plan on the next slide shows how the visual impact will be mitigated looking up from 'Anini Beach. It's not an issue from 'Anini Road because it's pretty steep going up. It's about a 40% grade, so you'd be looking straight up at vegetation, but the potential impact would be from 'Anini Beach and the park itself. And to mitigate that impact for the scenic value of the SMA consideration, we're looking at putting in new, matured, clustered American palm trees, as well as Manila palms. You can see that the height of the Manila palms at maturity reach 20-25 feet which will mask the project. In addition to this, there was a recommendation of a condition that the Planning Department imposed that they get to take a review and accept the final building plan that will come as a part of the Class I Zoning Permit or amended Class III Zoning Permit to look at the color and the...I guess just the color and shape of the roof when they approve that plan.

On the next slide, we just have a list of those trees. Just to note, the java plums and other trees, I know those are invasive trees, but those are existing that are mature that will help to mitigate the impact of that visual perspective.

I know a big question on your mind is probably what type of agricultural activities are going to accompany this particular farm dwelling unit, and what the applicant has proposed is a vanilla spice farm. Given (concerns) Public Works raised, as well as UH Sea Grant has raised some concerns with drainage and runoff, it's probably not too feasible to engage in extensive agricultural activity out there in terms of size and massing of an agricultural use. But in this particular case, a vanilla spice bean can be in a relatively confined area of a farm and the proposed layout is going to be 84 feet by 36 feet, and in there, we propose to have about 500 plants. The plants themselves can grow up to 20 feet, so in the shade shed, there will be connectors in the roof to allow the vine to grow. It is an orchid and it's one of the only fruit producing orchids in the world. The vanilla itself is a relatively expensive spice and in high demand. So if this plan comes to fruition, based on all the elements necessary, we can expect that each bean could sell between \$1.00 and \$2.00, meaning that they could be quite a profitable enterprise.

But that wraps up the short presentation. I'll be happy to take any comments or questions. And again, we will be requesting a deferral on this so we can address the drainage plan for the proposed Driveway No. 2 or looking at an alternative site around to connect the proposed structure to the existing one (1) driveway.

Chair Mahoney: Are there any questions for the applicant? Commissioner Keawe.

Mr. Keawe: Ian, we noticed in your presentation there's 4...5,000 vanilla beans and it is \$1.00 a bean. Is that what you said?

Mr. Jung: Well, it's more than that. I took a look on Amazon last night just to gauge how much it was. You can have...I've seen prices vary from five (5) beans at \$14.95 to two (2) beans for \$2.00, so it depends on the quality of the bean that comes out.

Mr. Keawe: Alright. So let's say it's \$2.00 a bean, you're still talking \$10,000 per year in income off of this farm. Is that right?

Mr. Jung: Well there's 500 plants, and I believe there was...it comes out (to) 5,000 beans, so if we have 5,000 beans, there is the possibility, if it's \$2.00 per bean, to be roughly...I can do the math for you. Andy produced the plans, so you can comment.

Andy Fran: Yeah, I think for locally grown, you're looking at a premium versus...

Mr. Keawe: Yeah, I'm just trying to get an idea of what this farm will produce as far as income is concerned.

Mr. Fran: On a wholesale basis, you're probably looking at \$5.00 to \$7.00 a bean for Grade A beans.

Mr. Keawe: Alright. So what does that equate to in total income per year?

Mr. Fran: \$25,000 to \$35,000 a year. But I will say this, there is room to double the size so that if this is successful, which I think it is because actually vanilla bean is being cultivated in the close proximity to this location and it has been established for a number of years, but there is room to double the size of the shade house.

Mr. Keawe: So that vanilla bean operation, which is closer to the highway, how are they doing?

Mr. Fran: You mean the existing?

Mr. Keawe: Yes.

Mr. Fran: It's actually a little bit mauka, but not very far mauka.

Mr. Keawe: Right, right, right. How are they doing?

Mr. Fran: I don't...haven't seen any financial information, but from what I'm told...

Mr. Keawe: As far as just growing conditions because you two are in the same area.

Mr. Fran: They're growing well in production. I've viewed it myself, personally, and its doing very well.

Mr. Keawe: Okay.

Mr. Jung: As many of you know, vanilla is a very hands-on propagation where there's no natural pollinators here in Hawai'i, so they actually have to be hand-pollinated, so it's a pretty extensive process.

Ms. Nogami Streufert: Could I ask a question, please?

Chair Mahoney: Yes. Commissioner Streufert.

Ms. Nogami Streufert: It is very intensive and yet, you've got two (2) farm dwellings, which I assume are going to be residences, but not necessarily for your farm hands or farm workers. Is that correct?

Mr. Jung: That's correct.

Ms. Nogami Streufert: So who's...this is an LLC that's owning this and is there going...is this a residence that you're intending for a long-term residence for someone, or...?

Mr. Jung: It is proposed to be a residence. Whether long-term or not, you know, it is a second home for this particular applicant.

Ms. Nogami Streufert: But there already is one on that property. Is that correct?

Mr. Jung: That's correct.

Ms. Nogami Streufert: So this would be the third?

Mr. Jung: No, this would be the second, so there's two (2) existing. The original density allowed for three (3), so now we're down to two (2) units.

Ms. Nogami Streufert: Right. But it's a farm dwelling.

Mr. Jung: It's a farm dwelling. Right.

Ms. Nogami Streufert: As opposed to a...farm dwellings generally...I'm not sure. How is that defined? Generally in the Midwest, the farm dwelling is where someone who works the farm, or who owns the farm, lives.

Mr. Dahilig: That would be ideal. I think it's very clear to the Commission what's going on here. But absent an actual definition of farming, we're left to a case-by-case evaluation as to the veracity of their farming proposal. So, you know, obviously we want to ensure that farming is occurring on the property; that's why we've proposed, as part of the conditions, an agricultural easement to at least (inaudible) the enforcement. But I believe that because this is an SMA application that we're more so looking at form, character, and compatibility rather than the obligations that they are required to meet under 205 and Chapter 8 of the Code. Nevertheless, if

it does appear that there is too much intensification of the property, you know, mitigation is always an option when it comes to SMA Permits; that's why the first unit does not need an SMA Permit, the second one does. So this is a pure discretionary permit at this point with respect to use of the property and compatibility with the shoreline area. So that was our department's evaluation at that time, but knowing that we want to maintain at least the rural and open space character, we found it prudent to ensure that the land still be maintained in an agricultural state, so that's why the ag easement is proposed. But this permit, in particular, is not a Class IV, Variance, or a Use Permit; it's an SMA Permit only.

Chair Mahoney: Further questions for the applicant?

Mr. Katayama: Chair Mahoney.

Chair Mahoney: Commissioner Katayama.

Mr. Katayama: For the applicant, can you describe how this second dwelling will help the ag operations? On your master plan, where is the post-harvest processing going to take place?

Mr. Jung: Where it's proposed to be is within...I think it takes only 200 square feet to dry the beans and get them ready, so that would take place in the agricultural shed, as well as in portions of the agricultural shade house itself.

Mr. Katayama: But then you have to package, store inventory. I mean, there's a whole process that needs to be part of going to the consumer.

Mr. Jung: Right.

Mr. Katayama: Where is that being addressed on your site plan?

Mr. Jung: The packaging...there is a proposed office which there is an area we could utilize for that if that's a requirement of the Commission, but at this point, it's just anticipated that the shed and the shade house area would be satisfactory to accommodate this particular operation.

Mr. Katayama: So I guess this is...if you could address, you know, how this second dwelling is going to enhance the economics of the vanilla? I'd really like to understand that.

Mr. Jung: Okay. And just to dovetail on Ms. Nogami Streufert's question as well, I think the big issue here is what is a farm and what is a farm dwelling? As you all know, the way HRS 205 works is when you have a dwelling on State Land Use Agricultural District in land, it has to be a farm dwelling. State law defines the farm dwelling as a dwelling for which the families occupying the home brings income from an agricultural activity. In the County Code, or the CZO, the definition of...or what's allowed in the Open and Agricultural Districts are single-family, detached residences. So now we have to harmonize the CZO with HRS 205, right? So the single-family, detached residence that's allowed on County CZO zoned lands has to convert itself into a farm dwelling unit. Now the problem, as Mike Dahilig indicated, there is no amount of requirement of farm activity that has to go or amount of income that's stated that's necessary

as a part of the operation. And I think many of you know that the...when the Ag District was created, it was sort of the catch-all district that the lands were just dumped into the Agricultural District, the Conservation District for preserved areas, and then the Urban District around what was currently existing. So of the four (4) land categories, the Agricultural District was dumped. In this particular case, it is topographically constrained so there is the possibility of doing ag activity on other areas, and I think historically, what happened out there is there was some rice paddies near or around that area on the terrace cliffs, but with water requirements for rice paddies, nowadays it would be very difficult to try and reestablish the proposed use that was there.

Mr. Katayama: Is this going to be a principal place of residence by someone?

Mr. Jung: No, it will not.

Mr. Katayama: So how does that support an ongoing daily ag activity that this statute was meant to encourage?

Mr. Jung: Alright, so there's situations on other properties where landowners can retain or hire or put on staff, a manager to do the agricultural activity. In this case, a manager could do the agricultural activity on behalf of the owner, which would then bring income to the family occupying the home who would be the owner of the proposed unit.

Mr. Katayama: But would that person be occupying this residence?

Mr. Jung: The person who would be doing the actual farming?

Mr. Katayama: Yes.

Mr. Jung: Most likely not. But the key here is it's an activity...the agricultural activity has to bring income to the family occupying the home, so if the income still comes in, without a stated amount, there's still a possibility that it meets the requirements under State law.

Mr. Katayama: So going back to my first question, how is this second dwelling, which is optional or at the discretion of this Commission, going to enhance the agricultural activity that's being proposed?

Mr. Jung: Well, the agricultural activity that's being proposed would be the new vanilla bean farm, right? So it would enhance it by creating a new area for this, this agricultural shed, to establish this farm in that particular area. Because on the other side of Unit 1, it's very steep and topographically constrained, so on Unit 2, where this application is contingent on, it flows to the bottom on the steep hill coming down and then there's a little flat area where we propose to have that shade shed.

Mr. Dahilig: But it's not inconceivable that because this is a CPR that other areas within the CPR or project could be intensified for greater ag use.

Mr. Jung: That's correct, but if you take a look at the site plan, and you can see where the elevations drop from 'Anini Road...or, rise from 'Anini Road pretty significantly up to the first farm dwelling unit, and then you have, on the small plateau where the proposed second residence will be, there's a little buildable zone, and then where...going to the left side of the sheet, you can see where the ag structure is, that's the only relatively flat area of the property that could, without alleviating the concerns that Sea Grant and DPW had about drainage, where there could be agricultural activity.

Mr. Dahilig: But it is conceivable that that second area for the plateau, this Commission could find that it is more compatible to have that remain as open space with respect to coastal compatibility.

Mr. Jung: I don't think the SMA consideration would be for an ag activity, as you just previously stated.

Mr. Dahilig: It wouldn't be. I said "open space" for...

Mr. Jung: It could be open space, but...

Mr. Dahilig: And to be maintained in a...maintained open space like in...and manicured agricultural usage.

Mr. Jung: If that would be the finding of the Commission, then that would eliminate...

Mr. Dahilig: That is a potential finding the Commission could find, right?

Mr. Jung: It is a potential finding, but that would alleviate where the proposed site plan for the second residence, which was already permitted from the prior SMA, would have to be relocated.

Mr. Dahilig: So relocation is possible?

Mr. Jung: Relocation is possible, yes.

Chair Mahoney: Further questions? Our next step at this juncture then.

Mr. Dahilig: I think, you know, Commissioners, we have heard from the applicant that looking at resolving the issue with the second access with Department of Public Works is still on the table. If they do need more time, we do have a timeline for action by September 20th, I believe. Let's see. September 19th. We would need, I guess, a waiver of time just between there and the next hearing to at least toll the clock so that we can allow them the time to actually resolve the issues with Department of Public Works. So if the Commission were to consent, we would, I guess...is there a request for a deferral?

Mr. Jung: Yes. The applicant would be willing to waive.

Mr. Dahilig: So there's a request for a deferral and they're willing to waive, and we would...second meeting in August? Is that acceptable?

Mr. Jung: I saw on the agenda that the next meeting is set for August 23rd.

Mr. Dahilig: Yes.

Mr. Jung: That'll give us a month to try and work out an alternative location for the second driveway and/or create an existing connection for the existing driveway.

Chair Mahoney: Maybe at that one we could see a PowerPoint.

Mr. Jung: Sure.

Ms. Nogami Streufert: Chair?

Chair Mahoney: Yes.

Ms. Nogami Streufert: Could I ask a question of Mike, please? Mike, if this is being deferred until the 23rd of August and there are other concerns, not just about the driveway, but other concerns, can those also be addressed at that time? Or will it only be about what the applicant is now asking for a deferral for?

Mr. Dahilig: I think it would be helpful for our department...you know, we've heard some of the concerns around the table already and I just want to caution the Commission that, you know, in as much as we have the ag discussions that this is, again, a form and compatibility permit related to coastal compatibility. So, you know, if there are concerns, they need to be couched in the context of the SMA principles and not the 205 principles. So if those are concerns that need to be handled and raised with the applicant, we can definitely handle those and try to resolve those before we submit a supplemental report to the Commission as to how we've tried to reconcile some of those issues. I mean, again, I do hear the majority of the comments related to ag, but, again, as I stated, the action of ag or the absence thereof really falls more to an enforcement type of situation versus something that relates to the SMA Permit because this is just a pure SMA Permit. If we bundled the Use Permit and a Variance Permit and a Class IV Zoning Permit, we would definitely be having that very robust discussion on...at least with our findings. But if there are other items, you can either lay it on the floor now so that we can be aware of them and try to resolve them before the Commission meets again in a month, or we can individually talk to each Commissioner and try to resolve those questions as well, so it's up to the Commission how they want to proceed.

Ms. Nogami Streufert: Okay.

Chair Mahoney: Commissioners, we heard some choices. Do you want to air any concerns at this time?

Mr. Keawe: I think we aired the concerns that we do have. I don't think there's anything else. So if there's nothing else, then you need a motion to defer.

Mr. Dahilig: I guess, yeah, the Department would request, given the consent on waiver of time, that we would defer this item to the second meeting in August; both the open agency hearing and potential action on this.

Chair Mahoney: The Chair will entertain a motion.

Mr. Keawe: I move to defer this action to the August 23rd meeting.

Ms. Nogami Streufert: Second.

Chair Mahoney: It's been moved and seconded for Special Management Area Use Permit SMA(U)-2016-6 to construct a farm dwelling unit at Tax Map Key 5-3-009:003, CPR Unit 2, affecting a portion of a larger parcel. It's moved and seconded. Any discussion? Hearing none. All in favor signify by saying aye. (Unanimous voice vote) Opposed? (None) Motion carried for deferral 5:0. Thank you.

Mr. Jung: Thank you, Chair and members of the Commission.

Chair Mahoney: Thank you.

Zoning Amendment ZA-2016-5 for a Bill for an Ordinance amending subsection 8-15.1(d), Kaua'i County Code, as amended, relating to additional dwelling unit on other than residentially zoned lands = *County of Kaua'i, Planning Department.*

Mr. Dahilig: We are on Item F.4. This is F.4.a. Zoning Amendment ZA-2016-5, a bill for an ordinance amending subsection 8-15.1(d), the Kaua'i County Code.

I'm handling this matter, Mr. Chair, and let me just give a little bit of just very brief background on this. This bill is actually tied to a previous measure that was handled by this body extending...I'm sorry...eliminating the 10-year construction sunset date for the ADU Certificates that were issued outside of the residential areas.

What came as a consequence of that discussion with the Council was that they wanted to also add an amendment reopening the ADU recertification deadline. The Attorney's Office, at the time, determined with the Council that adding such an amendment would be in violation of the, I guess, Supreme Court precedence related to what's called "substantial change" and that is, when you make an amendment, it has to be publicly noticed enough that the amendments to the bill that was originally proposed do not steer from what has been noticed and publicly vetted.

So out of an abundance of caution, we reintroduced a second measure related to reopening the ADU recertification deadline and letting that period run until the end of this calendar year. In actuality, the Department, really, has no objections to this particular amendment. Again, it's just a simple date change. We've already gone through this process once. We do have the systems

in place to actually restart and add in additional recertifications as this Commission is also...we're undergoing a number of contested case hearings related to people that failed to recertify. That is accruing a cost both for the County Attorney's Office in terms of time, as well as for, I guess, the departmental budget with handling Hearings Officers and such. We do not believe that reopening the recertification period would lead to an influx of a large number of these certificates. We believe that many of the certificate holders have already come in for recertification and so we are not looking at something that would pale in the order of what came in previously, which was just over 200 certificates.

So we are aware of a dozen or so people that have come in and have missed the deadline for various reasons; either health reasons, I'm out of state, I didn't get word. And we can see that, as part of the evaluation...you know, in hindsight, the certification period was actually less than 60 days. So by the time the law passed and by the time it actually was closed, there was less than 60 days for people to come in, get their certificate, and come back out. So from an equity standpoint, we do not feel that this is unfair to those people that may have come in during the deadline and gotten their certificate versus people that did not. And again, we do not believe that this is an operational burden to the Department, so we are in support of such an amendment. We are available for any questions or any other inquiries from the Commission at this time.

Chair Mahoney: Question?

Ms. Nogami Streufert: If I could ask a question. Alright. If we extend this or if you extend it until the 30th of December 2016, is this the end? Or can there be another extension after that?

Mr. Dahilig: It would have to be done through law again. So the process of adding and moving that date out again is...I cannot say with absolute certainty that Council won't propose another bill again to move it out, but we do expect that this does run...by the time this thing passes, there should be more than ample time for people to get what they need to get, and if they miss the deadline again, I think it speaks to their responsibility as citizens to be attentive to how to preserve their entitlements. So I don't perceive our department wanting to support a second extension beyond this.

Ms. Nogami Streufert: Okay.

Chair Mahoney: Commissioner Ho.

Mr. Ho: How do you get to the...you mail them? Call them? Just advertise?

Mr. Dahilig: So just as a little bit of background on the previous measure when we implemented it. We did not have a complete list and the reason why we didn't was because the jurisdiction of who handled the program had shifted between the Department of Public Works and our department over time. So certain certificates were issued by the Department of Public Works, but we also had ours that were issued by our department. The other thing, too, is, if you are familiar with an ADU Certificate...have you seen one of them before? What they look like is, it's a legal-size piece of paper that has blocks for each department to sign off on. So it's not as if there was a sequence that was prescribed, necessarily. It was once you get all "x" amount of signatures on it, then it's perfected for you to have the option to build. So there was never an

agency that was last in time that said okay, you gotten all the signatures, here you go. So we were also concerned when the previous bill was going through that there was this factor "x" of certificates that were not constructed on, but were received prior to our department handling the measure that could be floating out there. We do not feel at this time, given the experience with the previous bill, that we would end up with, again, a large amount of these certificates coming back into the fold because we've really only been pinged by about a dozen or so people that said they missed the deadline. But that's how the program kind of progressed and why we have this...why I cannot say with certainty that there's a fixed number of these things, but we know by feel, given the past registration process, that we're not looking at an exorbitant amount on the table.

Chair Mahoney: Commissioner Keawe.

Mr. Keawe: So if we do extend the deadline, then how do you get the word out besides what we just talked...are you going to do online? Or news ads?

Mr. Dahilig: So what we did last time was we called...and as just a follow-up with that. We called who we had on the list.

Mr. Keawe: Right.

Mr. Dahilig: We did radio ads. We did newspaper ads. And then what we also did was...if you look at that sign that says "Meeting in Recess", we put a website underneath that so every time that the public access was on there that they could see, you know. We even put a sign here that said if you have an ADU Certificate that needs to be registered, go to this website. So we used many means possible to try to get the word out, especially knowing in anticipation of the Mayor signing the last bill about a year and a half ago that there was the very short window for people to come and register. We can use the same tools again; social media, newspaper/radio ads, etc. And I think we have definitely the resources to go through that type of media campaign if necessary.

Mr. Keawe: Okay.

Chair Mahoney: Any further questions?

Mr. Katayama: Chair? How many cases do we have pending as contested?

Mr. Dahilig: I believe we've had a total of six (6) that have either been decided on or at contested case hearing. There's another three (3) that I'm familiar with that are wanting to sue us, and there are another three (3) that I'm familiar with that did not...that have said oh, we missed the deadline and what can I do? So we're not looking at a very large amount here, but there is a potential that they, themselves, could try to come into the fold with respect to contested case hearings.

Mr. Katayama: So maybe nine (9) cases?

Mr. Dahilig: Potentially.

Mr. Katayama: Or nine (9) applications?

Mr. Dahilig: Nine (9) applications. And there are, again, people that still trickle in and say can I submit my form? And when we say no, you know, what they choose to do is up to them, but... Again, I have three (3) right now that have not elected to do anything, but have recently come into the fold and said hey, I missed the deadline.

Mr. Katayama: And whose responsibility is it to ensure that they do this on a timely basis?

Mr. Dahilig: At the end of the day, it's meant to be their responsibility, so this is the last and final opportunity, as I see it. And if this does pass, let's say, this Commission and gets up to the Council, by the time the hearing's done, there should be at least a 3-month window, which is double the amount of time they had last time, so there should not be any excuse for them to miss it this time.

Mr. Ho: Mike, what is the sunset for them to build on an ADU? Did that get extended? Or is this...

Mr. Dahilig: Yeah, so the Commission handled the bill about three (3) months ago that eliminated that at the request of a measure that was introduced by Councilman Kagawa at the time. That was passed and that was eliminated, so this bill is a consequence of that discussion because there were also people that testified at the Council hearing stating they wanted this date changed so that they could come in and reapply because they missed the deadline. But again, due to the substantial change issues, that's why we're having to reintroduce a second measure.

Mr. Ho: So there's no sunset on the building?

Mr. Dahilig: There's no more sunset for those that already have come through the recertification process correctly.

Chair Mahoney: Any further questions? None. Chair will entertain a motion on this agenda item that we just spoke about.

Ms. Nogami Streufert: Is that the ordinance amending subsection 8-15.1(d)(7)? Is that what we're looking...

Chair Mahoney: Yes.

Ms. Nogami Streufert: Kaua'i County Code 1987, as amended, relating to additional dwelling units, ZA-2016-5?

Chair Mahoney: Correct.

Ms. Nogami Streufert: I move to approve the Director's Report.

Chair Mahoney: Okay. It was moved and...

Mr. Ho: Second.

Chair Mahoney: Seconded. It's been moved and seconded. Any further discussion? Hearing none. All in favor signify by saying aye. (4 ayes) Opposed? (1 nay-Katayama)

Mr. Dahilig: 4:1

Chair Mahoney: Pardon me?

Mr. Katayama: 4:1

Chair Mahoney: Motion carried 4:1.

Zoning Amendment ZA-2016-6: A Bill for an Ordinance amending Chapter 8, Kaua'i County Code 1987, as amended, relating to Section 8-2.4 entitled "Uses in Districts" = *County of Kaua'i, Council.*

Mr. Dahilig: Thank you, Mr. Chair. We are now on Item F.4.b.1. This is Zoning Amendment ZA-2016-6. I'll turn this over to the Deputy Director for further (inaudible).

Deputy Planning Director Kaaina Hull: Good morning, Chair and members of the Commission. I'll just read a brief summary of the Director's Report onto the record.

Mr. Hull read the Project Description and Use, Findings, and Evaluation sections of the Director's Report for the record (on file with the Planning Department).

Mr. Keawe left the meeting at 10:22 a.m.

Mr. Hull: It's really a simple proposal in that currently in the R-1 through R-6 Districts, multiple family dwelling units are prohibited; that is you cannot construct attached dwelling units. They all have to be single-family detached dwelling units, and the proposal just allows them the opportunity...a property owner...to connect the two (2) units when constructing them. The shared cost of having it under a single roof, shared walls, as well as the fact that some infrastructure costs are less costly if it's a multiple family dwelling unit. Case in point would be the Department of Water's FRC charge. If you are a single-family detached dwelling, it costs approximately \$15,000. If it's a multi-family unit, it costs about \$9,500-\$9,800. So it allows property owners just to take advantage of an additional opportunity in reduced cost to produce the density that their lot is afforded. And to be clear, this, in no way...I think there's been some discussion in the public...this is increasing or adding density to Kaua'i. In no way, shape, or form does the proposal add density. The lots will still maintain their respective zoning. If it's an R-4 lot, say, for example, it qualifies for four (4) dwelling units per acre. If it's an R-6 lot, it...sorry, and it's an acre in size. If it's an R-6 lot and an acre in size, it qualifies for six (6) units, and so on and so forth. So those zoning entitlements and density entitlements all stay the same across Kaua'i.

Mr. Keawe returned to the meeting at 10:24 a.m.

Mr. Hull: This draft bill just proposes the opportunity for property owners to construct multiple family dwelling units on those properties, as opposed to single-family dwelling units.

Mr. Ho: Kaaina, that's both detached and attached units you're talking about right now? You can have a detached if you want or you can have it attached?

Mr. Hull: In the R-1/R-6 District, you have to...excuse me. In the R-1/R-6 District, you cannot have attached units. So a multiple family unit is any single-family dwelling that is attached to another single-family dwelling. So the prohibition on multi-family dwelling units does not allow for attached units in the R-1 through R-6 for those lots that were created after 1980.

Mr. Ho: So this bill...

Mr. Hull: This bill just outright permits the ability to...well, currently, you can have single-family detached dwelling units in the R-1/R-6. You can have them in all Residential Zoning Districts. You can only have outright permitted single-family detached dwelling units in the R-1/R-6 Zoning District though. So all the proposal is is really just to allow them to attach dwelling units should the property owner want to do that.

Mr. Ho: Is the Department going to forgive property...what do you call that? 50% building. Are you going to get smaller? Get the property sides smaller? Front and back. Property setbacks?

Mr. Hull: No. The proposal doesn't adjust setbacks or it doesn't adjust lot coverage. And, in fact, requiring structures to be detached currently, under the law, actually impacts lot coverage more than allowing them to be connected. If you allow the opportunity to be connected, you actually end up, in certain cases, reducing the amount of lot coverage.

Mr. Ho: What about going up?

Mr. Hull: That's not part of the proposal. I think there's some discussion...there has been discussion about overall increasing the ability to build, particularly as we've seen in the Līhu'e Town Core Plan discussions, the Līhu'e Community Plan discussions, and the South Kaua'i Community Plan discussions. While the Līhu'e Town Core actually allows for buildings to go up to 50 feet in some areas, the vast majority of the island still remains for the Residential Zoning District, if it's a single-family structure, to go no higher than two (2) stories. And when that discussion was had, in particular with the South Kaua'i Community Plan, there were many members of that community or those communities, I should say because it's including, say, Kōloa, Po'ipū, and Kalāheo, that recognize the need to allow for further intensification of land. So those communities, and through the planning process, agreed that they should free up the lot coverage a little bit and went from the standard 50% to allow for 60% lot coverage. But there was significant public testimony to the fact that in those areas, they did not want to increase the height because they felt that it would be too impactful on the character of those neighborhoods.

Mr. Ho: Would you allow a kitchen unit in the second one?

Mr. Hull: Yes.

Mr. Ho: You can have a kitchen unit?

Mr. Hull: Yes. So in this, all its allowing is the additional dwelling unit to attach itself, and that additional dwelling unit would have a kitchen unit in it.

Ms. Nogami Streufert: But does that go through the same approval process that all the other separate dwellings will go through? Or is this going to go around it so you don't have to go through some of the approval process?

Mr. Hull: It would still go through the same review process. They would have to still get a zoning permit and they would have to get a building permit for it. In most situations, it's over-the-counter. Say...if it's like the previous application you reviewed, say it's in the SMA, then of course they would have to go through the Planning Commission for a special management area permit. But outside of, say, that, generally, these would be an outright permitted and the permitting process would be ministerial or over-the-counter at the Department.

Mr. Katayama: Chair, I have a question.

Chair Mahoney: Yes.

Mr. Katayama: Kaaina, we just put the ADU certification on daylight savings time for about three (3) months. But wouldn't this sort of address and give a better path forward on these ADU Certificates that were not converted in time? I mean, isn't this sort of an overlap to that? At least in the residential areas. Now, for the certifications for ADU outside the residential, I don't know that we've made a distinction to that, but I think that was a lot of the issue is that in ag areas where people missed the certification, I don't know if this daylight savings time for that was really meant for that kind of curing. So I think this bill is a lot more manageable and a lot more structured because you're putting density where it's supposed to be, as opposed to urbanizing areas that aren't potentially currently scheduled to be that. So I think that was sort of...we took the ordinances in the wrong order, but I think...I mean, it's okay. I mean, it's okay. If it's nine (9), it's not going to hurt the community or the island, I don't think. But it's, again...this is, again, focusing on residential areas and that's, I think, where we want to address urbanization. So, you know, I don't know if this is going to be the cure-all, but it sure helps. I mean, it's one of the solution sets that we need to look at. So, I don't know, maybe you can comment on that; on, you know, for people who have not yet applied for their ADU certifications that this might be an alternative for them if they're in a residential zoned property.

Mr. Hull: The two (2) are...I think you're correct, Commissioner, in saying that this is addressing housing issues; in particular, allowing for additional opportunities in those areas that were zoned to have residential uses. It's a bit separate from the previous draft ordinance that you folks reviewed in the sense that the ADU certification that had the sunset date in the previous agenda item is looking at removing that sunset date for certification, that's solely within the non-

residential areas, and the draft bill here is looking at the residential areas. So in residential areas, you can still have an ADU and there is no sunset date for applying for an ADU. To this day...and to be clear, an ADU is a dwelling unit that could be permitted on any lot of record that qualifies for only one (1) dwelling unit. So if you have a lot of record that qualifies for two (2) dwelling units, say you have an R-2 parcel that is one (1) acre in size, that qualifies for two (2) dwelling units and that is what you're provided. You qualify for more than one, so you don't qualify for an ADU. If you have an R-2 record that is a half-acre in size, you only qualify for one (1) dwelling unit and then the ADU clause of the CZO kicks in, and now you can qualify for an additional dwelling unit in addition to that first dwelling unit that you're afforded. So that's essentially how that kind of works in a nutshell. But for the residential district, there is no timeline for individuals to get their ADU clearance form. They can come in today and get an ADU clearance form and eventually construct an additional dwelling unit.

Chair Mahoney: Commissioner Keawe.

Mr. Keawe: Kaaina, can you give us some...it's funny when you talk about R-1 to R-6. Give us some actual places where that would be applicable. You know, neighborhoods that you know of.

Mr. Hull: The vast majority of Līhu'e is in the either R-4 or R-6 Zoning District; everything from Isenberg to Pikake. The vast majority of zoning districts lie within the R-4 and R-6 designation throughout Kaua'i when you're looking at most...virtually all of Kalāheo that doesn't fall within the South Kaua'i Community Plan, parts of Lāwa'i, much of Waimea/Kekaha. The vast majority of Kapa'a.

Mr. Keawe: Kapa'a?

Mr. Hull: Yes.

Mr. Keawe: Wailua?

Mr. Hull: Kapa'a/Wailua primarily fall in the R-4/R-6 Zoning Designation. There's actually very little R-1/R-2. R-1/R-2 actually falls within the State Land Use Rural District. There's only a handful of areas. Ōma'o, for one, is an R-2 Zoning District. In discussions and research with this, there are R-4 and R-6 within the north shore area; however, the north shore planning area, under the North Shore Plan under Section 10 of the Kaua'i County Code, actually it also prohibits multi-family dwelling in the north shore areas to be constructed on R-4 and R-6 lots, so that prohibition would still stand. This draft proposal does not affect the north shore planning district, which is essentially the Moloa'a Valley onward.

Mr. Katayama: But Kaaina, having this in place, wouldn't that provide an incentive for people to ask for zoning amendments now? I mean, and rightly so because now you can take...if you get ag land that is in marginal places that you can say, could you reclassify this to R-4 or R-6? And they could have, now, the intensification that that area...that one piece of land is rightly afforded or could be afforded.

Mr. Hull: Yes, that's definitely one (1) alternative.

Mr. Katayama: Yeah, so I think, you know, it's good because you give a path forward for people with lands that are kind of in no man's land, literally, or no ag land on the buffers; probably someplace like Kalāheo, probably some places like even Puhi maybe. On a smaller scale because otherwise they have to go through the State process, right, if it's a larger parcel?

Mr. Hull: In virtually almost all situations, rezoning to Residential Zoning Districts will require virtually...I don't want to say virtually all, but the vast majority...99% of landowners would actually have to go through the State process as well because they have to amend the State Land Use District to either Urban or Rural in order to get that Residential classification at the County level.

Ms. Nogami Streufert: Looking forward, I appreciate the idea of increasing the number of affordable units that would be potentially developed by this ADU bill. But, is it possible that...and I understand all bills can be abused. Does this open up another door, though, for bed and breakfasts in areas that should not be? So that it doesn't really help long-term housing, but it's really another transient accommodation. What are the remedies for that to ensure that that does not happen?

Mr. Hull: Regardless of where they put the multi-family dwelling unit...I'll say this. Whenever you add additional dwellings or give the landowner opportunity to construct another unit...and to be clear, this doesn't add density, but perhaps there are barriers to constructing other units, say, costs. And by reducing the cost and providing this opportunity to have multi-family dwelling units, you may provide some landowners the opportunity to construct another unit. Whenever you're looking at density rights and the construction of a dwelling unit, there's a potential for that landowner to violate the County Code and either open it up as a TVR or as a bed and breakfast. And if it's outside of the VDA, that's a violation that the Department has to deal with. Yeah, so it's just an enforcement issue. And quite honestly, I can say in the...when the prohibition was originally passed back in 1980, that was a concern of the County at the time that those areas that are frequented by transients, the ability to build multi-family units was transforming these shoreline areas that were utilizing them for transient accommodations. The County and the Council recognized that that was changing the form and the character of those shoreline areas, and they put a prohibition. Now, that prohibition went island-wide and ultimately affected the ability of everybody to not be able to build at somewhat of a reduced cost that multi-family units allow for a builder to do across the island, and has served as a barrier for housing just period. What we're looking at in, say, some areas that are more frequented with transient accommodations that actually much of the market is actually more gearing towards not the multi-family units as it was back in the 80s...the 70s, but it was actually more geared towards large-scale single-family dwellings is where much of the market goes for handling transients outside of that resort/hotel development paradigm. What you see a lot of either transients or even in the second home buyer market is it's not to go for the small individual units to rent out a lot, it's actually to go out, to a certain degree, much more towards the high-end, large-scale house. In many of the areas, say, South Kaua'i that are being marketed either for transient accommodations in the VDA for the TVR route and/or the second or third home owner route where it's used by snowboarders for the summer vacation type of area. A lot of times those properties aren't even coming close to taking advantage of their density because they might be able to build two (2) or three (3) units, but the market actually...what it's steering the developers

towards is to build that one (1) massive unit that transients or second homeowners are taking more advantage of and are desiring more. So is there potential for it to be abused outside of the VDA? There's always that potential and it's incumbent upon the Department to enforce upon those.

Chair Mahoney: I think...echoing on what the Deputy Director said...this is another alternative with the housing crisis and the expense that's entailed on Kaua'i that it might be one avenue for providing some of the housing. I think we all have to kind of look out of the box to find solutions. And like Kaaina said, in any case, there is potential for abuse, but I think more people, hopefully, would steer towards what the bill was intended to do because there's many families here that stand little or no chance of...as it is right now...of obtaining any kind of housing to stay in. So I think this is one route that could help in that and I think it's going to be a multi-faceted plan to try to reach this problem, but I think this is one of the facets that would be beneficial to many here. Any other comments or questions for the...?

Mr. Keawe: Just one. Kaaina, what do you think best-case scenario would be by implementing this? Just from what you know and what the Department knows, and the flow of business coming in and out.

Mr. Hull: It's kind of the same sentiment we expressed with the ARU draft ordinance that came before you folks a few months ago. It's hard to anticipate what somebody's going to build because ultimately it's on the property owner whether or not they want to expend those monies to build that unit. If it results in 1,000 units getting built that wouldn't have otherwise been built, or if it results in 10, it's still a success because it allows for the opportunity to build something. I mean, we would like for the higher end of numbers to come in because that's what Kaua'i's facing is that we're in a drastic housing shortage. I think the last set of numbers I looked at is on average we need to be pulling 400 building permits a year for family dwelling units just to meet the need on-island; not the second market folks, but just on-island demands of our local folks who need housing. And right now, for the past several years, we've been averaging around 200 houses getting per year. We're nowhere close to meeting our demand, and as we stay at that, somewhat, same level while the demand keeps on increasing as our island grows, that gap just grows exponentially. So this is one...I think the Director's been using it up at Council and it's an accurate statement...this is one of many lines that are getting cast in the water; the ARU was one. I think you can expect, over the course of the next several years, additional lines being cast out at both the zoning level, as well as in other areas within the housing ordinance, within perhaps Chapter 5 of the Tax County Code. But just looking at ways to further incentivize and/or reduce barriers to providing housing opportunities for local families.

Ms. Nogami Streufert: In the future, then, if one were to, say, have...it's zoned R-1, you have an ADU, and now it's attached to it; it becomes a larger house. Essentially, it becomes two (2) houses, but it's attached. Can you sell each one of them separately? Or does it go as a unit? Because if you sell it as a unit, now you've made it even more inaccessible to the people who might need it in the future.

Mr. Hull: No, under the State's Condominium Property Regime Laws, you can separate those units. It's essentially the same way individual apartment units are sold off. Lines are drawn through those individual units even though they're connected and they can be sold individually.

Ms. Nogami Streufert: And the land would be divided, also, with that?

Mr. Hull: It could be. It depends on how the CPR document is processed.

Ms. Nogami Streufert: Okay.

Mr. Keawe: So what's the recommendation, Kaaina?

Mr. Hull: The recommendation is for adoption. If there is movement today from this Commission to, say, adopt it, just going through it yesterday evening, the Department would offer an oral amendment to Section 8-2.4(a)(4)(3), which is on the first page, which begins with...on Table 8-2.4, the Table of Uses, the use that's listed is, "Notwithstanding subsection (3) above, multiple family and single family attached dwellings developed pursuant to a Federal, State or County housing program". It can be left in there, but it's redundant should the Commission, and ultimately the Council, adopt the draft recommendations because the draft proposal states that all multiple family units are allowed in all residential districts, whereas this one section says you can do multiple family in the R-1 through R-6 if it's in conjunction with a State or County housing program. So it would just say that regardless of what would be adopted...all that we would propose is, "Regardless of it being part of a State or County program, all properties can qualify for multi-family dwellings". It's a clean-up measure if the Commission is looking at adopting the draft proposal. It's not a necessary measure, but it's a clean-up measure.

Chair Mahoney: Commissioners, any discussion on that topic?

Ms. Nogami Streufert: We're looking at this right now as solving a problem that we have right now. But in terms of a larger strategic look in the future, is this the way...and this only ends on the...whatever has already been done by June 30, 1980. Does that become an issue to put a date like that in there?

Mr. Hull: No, so the...

Ms. Nogami Streufert: What was the rationale, I guess, for that date?

Mr. Hull: That date was to basically, as I understand it, when it was passed back in 1980, to acknowledge the fact that there are property owners that previously could put multi-family dwelling units on it that were subdivided prior to the enactment of that prohibition. So they just wanted to recognize...as I understand it, the Council just wanted to recognize that and to still allow for it to occur on those properties. The draft proposal that came across from Council this time is saying you just eliminate that date period and you can have multi-family dwellings on all properties within the R-1/R-6. And I'll say, to a certain degree, it does very much align with much of the discussions that have been had with the community plans...that's within the existing

General Plan and I can say much of the discussions going on in the General Plan update that look at, as some of the Commissioners have stated, in ensuring the density and development occur within those areas that have been zoned for residential development.

Chair Mahoney: Any further discussion? Okay. Maybe we can move towards making a decision on adopting or not.

Ms. Nogami Streufert: Can I ask one? At the best possible case, assuming...you said anywhere from 100 to 10,000 units that could be built or whatever...at the higher ranges, do we have the infrastructure to support it? Or is there any plan to update the infrastructure to support that kind of a density?

Mr. Hull: When the various agencies do their analysis of providing infrastructure, they do take in the densities that are allotted to that property. So like I said in the beginning, this in no way affects the density. It just provides the opportunity for individuals to potentially construct that additional density at a lower rate. There are certain areas that are robust with...not robust, but have adequate infrastructure to meet more units going online; in particular, the Līhu'e area. Both water and the sewer folks have advised the Department that there is capacity for further expansion. In some areas, there may not be. It depends on what type of development is on a respective property. To a certain degree, it is a case-by-case situation because on all properties that aren't sewer, the Department of Health is going to require a septic system. Now, there may be some properties that have enough septic capacity on-site to accommodate that next unit. There's some properties that don't, and so they'll have to increase their septic capacity or put another septic system on-site. So it just depends. At the end of the day, each respective property that, say, applies for that unit under the draft bill, if it's adopted, would have to get signed off by the Department of Water, by the Department of Health to verify capacity. If there's no capacity, the Department of Water won't sign off on it. If there's no capacity on the water side, on the sewer side, or the Department of Health side. They don't get that building permit signed.

Chair Mahoney: Commissioner Katayama.

Mr. Katayama: Mr. Chair? I think we had this conversation prior, but is there somebody that's creating overlay on what this capacity is? Rather than having the applicant guess on, you know, starting the process of permitting and finding out that, you know, it just doesn't work from an infrastructure point of view. I mean, a part and parcel of this, literally, is that these areas deemed to have water capacity or wastewater capacity. I mean, you know, or, you know, the traffic carrying ability, then it makes it a lot easier for applicants to say, yeah, I can go through the process of getting these permit applications. But it is available, as opposed to other areas where it's just not available, or, you know, the cheapness is not really cheap anymore because you have to extend water lines or septic lines or whatever it is, sewer connection, whatever it is. So I think that is sort of the next derivative of what makes this thing functional because I think now you've given the pathway. I think you've got to pave it a little bit.

Chair Mahoney: Commissioner Keawe.

Mr. Keawe: Yeah, you know, one of the concerns is obviously you can give them the pathway, but then they find out well, you know, the first water meter was \$150 and my second one for my new dwelling is going to be \$14,000, which is not too far off what it actually is. Is that true, Kaaina?

Mr. Hull: As I understand it, the first water meter is \$15,000 and the second water meter is \$15,000; not water meter, the FRC cost.

Mr. Keawe: Okay. Alright.

Mr. Hull: And I completely agree. At the end of the day...and we're seeing it with many of the plans that we've adopted...not many, but at least the two (2) past plans; the South Kaua'i Community Plan and the Lihu'e Town Core Plan, which actually gave additional density. Unlike this bill, which does not give additional density, it gives additional density, it gives additional entitlements and allows for things like housing to a greater scale. And what we're realizing in many situations is property owners in those areas aren't necessarily building out as we anticipated to the full potential, and realizing, somewhat sadly for Planners, that zoning entitlements isn't the end-all, be-all, but it is a part of the picture. Often it's the first barrier because if you can't even build it without the zoning entitlements, then you can't even get to that next discussion of a water meter or hooking up into a sewer line. It is the first area of entry and so what Councilmember Kaneshiro, who actually drafted this bill, and some of the bills we've drafted is recognizing we need to reduce that first barrier where appropriate. So when you saw the ARU before you folks, which was, to a certain degree, increasing density, I'm saying that's an appropriate area. I think with Councilmember Kaneshiro's draft bill, he was looking at saying he's not increasing density. It's not further intensifying the development by any means because those...all the respective properties have been zoned and given a particular density. He's just saying let's provide them for additional opportunity to reduce costs. If you can't hook up to water at that time, you can't hook up to the sewer, okay, that's another discussion that quite frankly, I think as we delve deeper and deeper into this housing crisis and how we find solutions, a discussion, I think, as you folks are pointing out, looking at exact overlays of how to map out where all this infrastructure is available to provide a smoother path for applicants, as well as looking at reduction in fees or subsidies. I think all of those discussions are going to have to happen, but we're looking at zoning as essentially that first step in that direction.

Chair Mahoney: Okay. Okay, having said that, we're going to have to take a caption break.

The Commission recessed this portion of the meeting at 10:55 a.m.

The Commission reconvened this portion of the meeting at 11:04 a.m.

Chair Mahoney: Call the meeting back to order. We left off with our Deputy Director clarifying some of the points on the bill. At this point, I just wanted to add...a comment of my own is that, you know, the bill doesn't cure all, but it's an opportunity, and I think we've got to explore all opportunities for housing, so I'm going to be in support of this.

Is there anything you wanted to...?

Mr. Hull: Yeah, just for further clarification, the Department is recommending that the draft bill be adopted with one (1) amendment, that's Section 8-2.4(a)(4)(3) in the Table of Uses, also be deleted.

Chair Mahoney: Is there any other discussions? We can move towards making a decision.

Mr. Keawe: I move to approve Zoning Amendment ZA-2016-6. A bill for an ordinance amending Chapter 8, Kaua'i County Code 1987, as amended, relating to Section 8-2.4 entitled "Uses in Districts" with the elimination of Section 8-2.4(a)(4)(3) as outlined in the zoning district grid.

Chair Mahoney: Okay.

Ms. Nogai Strefert: Second.

Chair Mahoney: It's been moved and seconded. Any discussion? Hearing none. All in favor signify by saying aye. (Unanimous voice vote) Opposed? (None) Motion carried 5:0. Thank you.

ANNOUNCEMENTS

Topics for Future Meetings

The following scheduled Planning Commission meeting will be held at 9:00 a.m., or shortly thereafter at the Lihu'e Civic Center, Mo'ikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Lihu'e, Kaua'i, Hawai'i 96766 on Tuesday, August 23, 2016.


Mr. Dahilig: Thank you, Mr. Chair. We are now on Item N. This is Announcements. We have circulated the batting order for the Commission, and just as a background, you will notice that there aren't any new applications scheduled for activity in September; that's due, again, to the Hawai'i Congress of Planning Officials Conference. But we do have something scheduled for the second meeting in September related to the Unkrich...and that's the intervention matter, so just as a heads up. But looking forward, there's no first meeting in August scheduled and so we do have another meeting that is scheduled at 9:00 a.m. on Tuesday, August 23rd right here in this room. And that's all we have for today, Mr. Chair.

Chair Mahoney: Okay. With no further business, meeting adjourned.

ADJOURNMENT

Chair Mahoney adjourned the meeting at 11:06 a.m.

Respectfully submitted by:



Darcie Agaran,
Commission Support Clerk

() Approved as circulated (add date of meeting approval)

() Approved as amended. See minutes of _____ meeting.